United Nations S/AC.37/2005/(1455)/10

Security Council

Distr.: General
29 August 2005

Original: English

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 25 August 2005 from the Permanent Mission of the United Republic of Tanzania to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the United Republic of Tanzania to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to submit herewith the report of the United Republic of Tanzania on the implementation of Security Council resolution 1455 (2003) (see annex).

05-47504 (E) 010905

Annex to the note verbale dated 25 August 2005 from the Permanent Mission of the United Republic of Tanzania to the United Nations addressed to the Chairman of the Committee

Report of the United Republic of Tanzania pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Having itself been the victim of a terrorist act by Al-Qaida network in the 1998 bombing of the United States Embassy in Dar-es-Salaam, Tanzania is fully cognizant of the gravity of the multidimensional threat represented by the scourge of terrorism and convinced of the need to adopt a long-term global security strategy based on prevention. The Government of the United Republic of Tanzania has maintained close cooperation with the international community in the war against terrorism.

The Government has taken all necessary measures to ensure compliance with Security Council resolution 1455 (2003). To that end, Tanzania had already enacted a legislation known as the Prevention of Terrorism Act, No. 21 of 2002.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The consolidated list used to be distributed by means of a letter circulated by the Ministry of Foreign Affairs to all stakeholders including the Bank of Tanzania, Police Force (Counter-terrorism Unit), the Tanzania Intelligence Services and the Department of Immigration. Currently all the stakeholders access the United Nations web site where the list is located.

The Counter-terrorism Unit of Tanzania Police Force has established a database containing the names of all individuals and organizations known to

have links with international terrorism. The database is updated with information from the International Criminal Police Organization (Interpol) and other foreign security entities, in addition to the list provided by the United Nations.

3. *Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.*

Under Tanzania laws one is innocent until proven guilty. Therefore, freezing of assets of an individual or entity that has not been convicted creates legal complications. Nevertheless, such complication has not risen.

4. *Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.*

Ahmed Khalfan Ghailani, a Tanzanian national arrested in Pakistan in 2004.

5. *According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.*

As explained above Tanzania law, particularly the Prevention of Terrorism Act, 2002 provides legal powers to the relevant authorities to enforce measures to prevent individuals and entities to conduct any business for Al-Qaida.

The Prevention of Terrorism Act, 2002 defines and prohibits acts of terrorism including-

(a) Recruitment of persons to be members of terrorist groups;
(b) Harbouring of persons committing terrorist acts;
(c) Rendering support to terrorism and;
(d) Membership to terrorist groups.

6. *Please describe briefly:*

- *the domestic legal basis to implement the asset freeze required by the resolutions above;*
- *any impediments under your domestic law in this context and steps taken to address them.*

Section 12(5) (a) of the Prevention of Terrorism Act, 2002 provides for freezing of funds, financial assets and economic resources, including funds derived from property, owned or controlled by a suspected terrorist or terrorist group. Section 42 lays down the procedure for seizure and restraint of such property.

Whenever the Bank of Tanzania (BOT) receives a list containing names of individuals and /or entities linked to terrorism, the bank issues a circular containing those names, directing banks and financial institutions to scrutinize their records in order to determine if they have accounts or assets belonging to those persons. If such accounts /assets are found, banks and financial institutions are directed to block and freeze them. All banks and financial institutions are required to report to the BOT regardless of whether they have or have no relationship with the listed names. Banks and financial institutions also commit themselves to report to the BOT of any attempt to establish relationships with them by the listed individuals or entities.

Those directives by themselves have no force of law but inference has to be made to Section 17 of the Banking and Financial Institutions Act, 1991 [BFIA 1991].

7. *Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.*

All entry points in Tanzania are manned by officers from Government departments that deal with the security of the country namely, the Tanzania Police Force, Immigration, the Tanzania Intelligence and Security Service and the Tanzania Revenue Authority. Every department has specific jurisdiction over matters pertaining to its functions. Joint training sessions

are conducted on several occasions for officials who man the border posts in order to strengthen the level of cooperation and coordination.

Tanzania is also implementing the Terrorist Interdiction Programme whereby major entry points are computerized and passports are scanned to establish their authenticity and identity.

Occasionally the Police conduct border patrols and operations based on intelligence gathered. However, this task is difficult due to the fact that Tanzania shares common borders with 8 countries and has more than 1000 kilometers of coastline.

8. *Resolution 1455 (2003) calls on Member States to provide "a Comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:*

- *Identification(s) of the persons or entities whose assets have been frozen;*

- *A description of the nature of the assets frozen (i.e., bank deposits, Securities, business assets, precious commodities, work of art, real estate property, and other assets);*

- *The value of assets frozen.*

To date, the banking and financial system in Tanzania has not detected any of the listed persons or entities attempting to use our banks or non-bank financial institutions.

9. *Please indicate whether you have released pursuant to resolution 1452 2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.*

There has been no unfreezing of any funds, financial assets or economic

resources. To date no person or entity associated with al-Qaida or related to Osama bin Laden is known to have used Tanzania's banking and financial system.

10. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:*

• *The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;*

All banks and non-bank financial institutions through the Bank of Tanzania have received the list for the prevention and detection of possible illicit financial transactions which could benefit individuals or entities alleged to belong to or associated with al-Qaida. The principal methodology used is the daily review of all customer transactions, the application of "due diligence", and use of all necessary means to get to "know the customer".

• *Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR) and how such reports are reviewed and evaluated;*
• *Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated;*

The Prevention of Terrorism Act, 2002 requires every person to disclose to relevant authorities suspicious transactions relating to terrorist acts. The penalty for failure to disclose such transactions is imprisonment of not less than 2 years and not more than 5 years.

Under the same Act, every person is duty bound to disclose information relating to the property of terrorist groups or property used for commission

of offences. The penalty for failing to disclose such information is imprisonment to a term of not less than 12 months.

Under the proposed amendments to the Proceeds of Crimes Act, 1991 financial intermediaries (e.g. Lawyers & Brokers) would be required to report suspicious transactions to the relevant authorities.

• *Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;*

Tanzania abides by the rules of the Kimberley Process Mechanism.

• *Restrictions or regulations, if any, applicable to alternate remittance systems such as or similar to "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.*

Currently, no laws or procedures are in place to regulate informal system of money remittance.

With regard to charities, the Inspector General of Police has delegated this responsibility to the Director of Criminal Investigation (DCI). The DCI issues written consent to persons or groups who intend to collect money for charitable purposes. DCI office is responsible for criminal investigations and has the power to investigate any diversion of funds that had been intended for charitable purposes.

Section 44 of the Prevention of Terrorism Act, 2002 empowers the Government to refuse application for registration, and revocation of registration of trusts, trustees and charities linked to terrorist groups. The Act also makes it an offence to persons who provide and collect funds, property and services for the commission of terrorist acts.

Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

11. *Please provide an outline of the legislative and/or administrative*

measures, if any, taken to implement the travel ban.

All entry points in Tanzania are manned by immigration officers whose duties and responsibilities include facilitation, control and monitoring. They work hand in hand with other agencies including the Police, State Security and Customs. Section 8 (1) of the Immigration Act, No.7 of 1995 provides that:

> "An immigration officer may without warrant, arrest any person whom he reasonably suspect to be a prohibited immigrant, a terrorist or to have been concerned in international terrorism within the meaning of the Prevention of Terrorism Act, 2002 or to have contravened or to be about to contravene any of the provisions of this Act".

Under the provisions of the Prevention of Terrorism Act, 2002 the Police or Director of Immigration may seek information relating to passengers of vessels and aircraft entering or leaving Tanzania. The Act also empowers the Director of Immigration or other authorized officer to prevent entry into Tanzania if he has reasonable grounds to believe that such person has been, or will be, involved in the commission of a terrorist act. The same applies to an applicant for refugee status.

Tanzania has also introduced machine-readable passports as well as a computerized system at entry points. In the event that a person is found with forged travel documents, he or she may be prosecuted under among other laws the Tanzania Passports and Travel Documents Act, No. 20 of 2002 and the Prevention of Terrorism Act, 2002.

12. *Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.*

The procedure is to notify immigration officers at all entry points which are served by a computerized system.

13. *What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertaking and entities associated with them?*

The Prevention of Terrorism Act, 2002 provides that any person "who knowingly offers to provide, or provides any weapon to-

(a) a terrorist group;

(b) a member of a terrorist group;

(c) to any person for use by, of for the benefit of, a terrorist group or a member of a terrorist group,

is guilty of an offence and on conviction, be liable to imprisonment for a term not less than twenty years and not more that thirty years".